

**MINUTES OF THE
AUBURN CITY PLANNING COMMISSION
JANUARY 17, 2006**

The regular session of the Auburn City Planning Commission was called to order on January 17, 2006 at 7:30 p.m. by Chairman Thompson in the Council Chambers, 1225 Lincoln Way, Auburn, California.

COMMISSIONERS PRESENT: Merz, Murphy, Smith, S. White, Chrm. Thompson

COMMISSIONERS ABSENT: None

STAFF PRESENT: Will Wong, Community Development Director; Steve Geiger, Associate Planner; Bryan Jones, Associate Civil Engineer; Sue Fraizer, Administrative Assistant

ITEM I: CALL TO ORDER

ITEM II: APPROVAL OF MINUTES

The minutes of the December 6, 2005 and December 20, 2005 meetings were approved.

ITEM III: PUBLIC COMMENT

None.

ITEM IV: PUBLIC HEARING ITEMS

- A. **Use Permit – 536 Grass Valley Highway and 555 Wall Street (Rolf Howard – Howard Motorsports Group) – File UP 06-1.** The applicant requests approval of a use permit to allow motorcycle sales and repair at 536 Grass Valley Highway and 555 Wall Street.

Planner Geiger gave the staff report. The applicant is an existing motorcycle sales & repair business that is moving. The zoning ordinance requires a use permit approval. The applicant does not propose any changes to the exterior of the existing buildings. The

applicant plans to have 6 outdoor display areas at 536 Grass Valley Highway and an outdoor storage area. Staff recommends approval of the project subject to the conditions in their report.

Comm. Murphy asked if the site plan is a recent site plan or the original site plan.

Planner Geiger said that the site plan was prepared by the previous owner and provided to the applicant by staff, and they have modified it.

Comm. Murphy asked if the landscaping shown on the site plans is supposed to be there.

Planner Geiger said the original plan showed the whole tree drawing. The applicant has modified this to show the display area.

Comm. Murphy asked if Staff went to the site and looked for the trees.

Planner Geiger said that Staff did go to the site, but have not checked the photos provided by the applicant to verify the landscaping.

Comm. Murphy asked if the Commission could ask the applicant to restore what was proposed for trees originally.

Planner Geiger said yes, and the Commission could add a condition to require more landscaping.

There was discussion between Comm. Murphy and Planner Geiger concerning trees and shrubs on the property.

Director Wong commented that Staff could research the plans that were done when the original movie theater was converted to the automobile sales business.

Comm. Merz asked if the Use Permit is different for the motorcycle business than it was from the auto business.

Planner Geiger said that in the C-3 zoning, the automobile sales and repair is a permitted use, but the motorcycle sales and repair business requires a Use Permit.

The applicant, Leslie Howard introduced herself.

Comm. Murphy asked is she is willing to plant trees on the property.

Ms. Howard said yes, she is willing to plant as long as there is a place to do it.

Comm. Murphy asked Ms. Howard if she is willing to add landscaping and trees on the Highway 49 side.

Ms. Howard said she is willing to plant in front of the display but does not want to block the storefront or any signage.

Chrm. Thompson suggested that the applicant work with staff to plant some trees.

Planner Geiger said he would ask for clarification from the Commission about the number of plantings, and if a minimum width is desired.

Comm. Murphy asked that staff be available to help the applicant find some practical locations for planting trees and shrubs.

Comm. Murphy **MOVED** to:

- A. Find the request Categorically Exempt from the California Environmental Quality Act (CEQA) per Section 15301 (Existing Facilities).
- B. To approve the Use Permit for motorcycle sales and Repair at 536 Grass Valley Highway and 555 Wall Street (File #UP 06-1) subject to the findings and conditions listed in the staff report with the following modifications:

The applicant shall work with staff to comply with the requirements of the previously approved landscape plan for the site. If necessary, landscaping shall be replanted and irrigation provided. The applicant shall also work with staff to add more landscape planters/islands in the front portion of the property adjacent to the proposed display areas that shall contain trees and shrubs.

Comm. Merz **SECONDED**.

AYES: Merz, Murphy, Smith, White, Chrm. Thompson
NOES: None
ABSTAIN: None
ABSENT: None

The motion was approved.

C. Ordinance Amendment – Medical Marijuana –File OA 05-2. The Planning Commission will consider an Ordinance Amendment (File OA 05-2) amending the Auburn Municipal Code regarding medical marijuana dispensaries. The proposed ordinance amendment would repeal Ordinance No. 04-3, regarding medical marijuana dispensaries, thereby deleting the language added to the Auburn Municipal Code; and adding Section 159.019 Prohibited Uses, which would prohibit medical marijuana dispensaries or any other facility or use which involves the distribution of drugs or other substances which it is illegal to distribute or possess under state or federal law.

Director Wong gave the staff report. In 2004, the City Council adopted an Urgency Ordinance which established Regulations for medical marijuana dispensaries. Since that time the legal situation has changed and other jurisdictions have repealed their ordinances. The City Council has directed staff to initiate this proposed ordinance amendment, which would repeal Ordinance No. 04-3 and prohibit medical marijuana dispensaries or any other facility or use which involves the distribution of drugs or other substances which it is illegal to distribute or possess under state or federal law. This ordinance amendment requires a recommendation from the Planning Commission since repeal of Ordinance No. 04-3 would eliminate code sections found in the Zoning Ordinance and add to the Auburn Municipal Code, a new Section. The proposed new section is included in the staff report.

Comm. Smith asked where the locations are going to be.

Director Wong said that if the ordinance is not repealed, someone could still apply for a medical marijuana dispensary business. The purpose of the repeal is to change the ordinance so that a dispensary would not be allowed in the City of Auburn.

Comm. Murphy asked what kind of requirements the City has on the location now.

Director Wong described some of the requirements for a marijuana dispensary.

Comm. Smith asked the Police Chief if, for example someone could open a dispensary in the downtown area.

Police Chief Valerie Harris said yes, if they had a location that met the requirements.

Chrm. Thompson asked Chief Harris to explain what other jurisdictions have done.

Chief Harris said she called the Acting Chief for Rocklin Police Department, and also spoke with the Chief of Roseville Police Department. Both of those jurisdictions have repealed the marijuana dispensary ordinances.

Comm. White stated that based on what she read in the staff report, the City will not set themselves up for legal liability. She asked Chief Harris if that is correct.

Chief Harris stated that it is recommended by City Attorney, and we're seeing other cities under the advice of their legal council doing the same.

Comm. Merz said he doesn't think there is any obligation on the part of the city to provide access to a dispensary. He agrees with the recommendation that the Commission repeal the ordinance.

Chrm. Thompson asked for an explanation of why the ordinance was passed to begin with.

Director Wong stated that he believes the reason why the ordinance was passed is that if there were no regulations in place, someone could ask for a business license and open a dispensary with no regulations.

There was discussion about other instances in which dispensaries were opened.

Comm. Smith commented that he is concerned that by repealing the ordinance it may open up doors for people going over and above the dispensaries to obtain medical marijuana.

Chief Harris said that there are never any guarantees, and at this time she agrees with the city attorney that the repeal should be supported.

The meeting was opened for public comment. There was none.

Comm. Murphy said that he has a different viewpoint due to a family member using medical marijuana for relief from the effects of cancer, and he could not support repealing the ordinance.

Comm. Merz stated that many medical practitioners support that there are benefits from medical marijuana, but feels that the safeguards are not there to prevent a profit being made.

Comm. Merz **MOVED** to:

- A. Recommend that the City Council amend the Auburn Municipal Code as stated in the staff report, which would repeal Ordinance No. 04-3, regarding medical marijuana dispensaries, thereby deleting the language added to the Auburn Municipal Code; and adding Section 159.019 Prohibited Uses, which would prohibit medical marijuana dispensaries or any other facility or use which involves the distribution of drugs or other substances which it is illegal to distribute or possess under state or federal law (or as modified by the Planning Commission).

Comm. White **SECONDED**.

AYES: Merz, White, Chrm Thompson
NOES: Murphy, Smith
ABSENT: None
ABSTAIN: None

The motion was approved.

ITEM V. COMMUNITY DEVELOPMENT DEPARTMENT FOLLOW-UP REPORTS

- A. City Council Meetings

No report.

- B. Future Planning Commission Meetings

The next meeting will be on February 7, 2006.

C. Reports

None

ITEM VI. PLANNING COMMISSION REPORTS

None.

ITEM VII. FUTURE PLANNING COMMISSION AGENDA ITEMS

None.

ITEM VIII. ADJOURNMENT

The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Susan Fraizer, Administrative Assistant

